

FILED

JUL 09 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES BONINI, Clerk
DAYTON, OHIO

UNITED STATES OF AMERICA

CASE NO.

3 : 08 cr 098
THOMAS M. ROSE

v.

INDICTMENT

(1) TOMMY JOE TIDWELL,

18 U.S.C. § 2

18 U.S.C. § 371

(2) DAVID A. DETRICK,

18 U.S.C. § 922(g)(1)

18 U.S.C. § 924(a)(2)

(3) DAVID J. LOMBARDO,

18 U.S.C. § 1029(a)(1)

18 U.S.C. § 1029(a)(2)

(4) TELISHA DAVIS,

18 U.S.C. § 1029(a)(4)

18 U.S.C. § 1341

Defendants.

18 U.S.C. § 1343

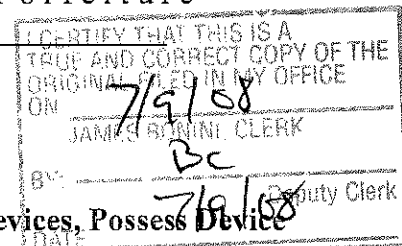
18 U.S.C. § 1349

Forfeiture

THE GRAND JURY CHARGES THAT:

COUNT 1

**(Conspiracy to Use Unauthorized Access Devices, Possess Device
Making Equipment, and Use Counterfeit Access Devices)**



1. Beginning on a date unknown, but at least by April 12, 2002 and continuing up to and including June 13, 2008, in the Southern District of Ohio and elsewhere, defendants, **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS**, together with each other, and with other individuals both known and unknown to the Grand Jury, did conspire between themselves and each other to commit certain offenses as follows:

- a) 18 U.S.C. § 1029(a)(1), namely fraud and related activity in connection with "counterfeit access devices" (as that term is defined at 18 U.S.C. § 1029(e)(2)).
- b) 18 U.S.C. § 1029(a)(2), namely fraud and related activity in connection with "access devices" (as that term is defined at 18 U.S.C. § 1029(e)(1), to wit: knowingly

and with intent to defraud, use one or more unauthorized access device during a one year period, and by such conduct obtained things of value aggregating \$1,000.00 or more during that period, as those elements are described in 18 U.S.C. § 1029(e)(1) and (3).

c) 18 U.S.C. § 1029(a)(4), namely fraud and related activity in connection with the custody and possession of “device-making equipment” (as that term is defined at 18 U.S.C. § 1029(e)(6)).

OBJECTS OF THE CONSPIRACY

2. The object of this conspiracy was to wrongfully acquire and subsequently transfer and dispose of fraudulently obtained goods and merchandise, in exchange for United States currency, for “access devises” (as that term is defined at 18 U.S.C. § 1029(e)(1)), and for other things of value, all for the personal benefit of the conspirators.

3. It was further an object of this conspiracy to knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises from various retail stores to include: Gander Mountain, Lowe’s Home Improvement, Home Depot, Wal-Mart, Tractor Supply, Menards, Kmart, Target, Big R and Rural King Supply.

MANNER AND MEANS

The manner and means of conduct used by this conspiracy included, but was not limited to:

4. It was part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown

to the Grand Jury, developed a plan to steal goods and merchandise from various retail stores located throughout the Southern District of Ohio, and the states of Indiana, Illinois and Texas.

5. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, targeted larger chain-type home improvement and general merchandise retail stores, including, but not limited to Gander Mountain, Lowe's Home Improvement, Home Depot, Wal-Mart, Tractor Supply, Menards, Kmart, Target, Big R and Rural King Supply.

6. It was further part of the conspiracy and scheme and artifice to defraud that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, targeted higher priced items of merchandise, such as Dyson Vacuum Cleaners, Lincoln Electric Welders, power winches, Paloma Tankless Water Heaters, personal computers, Honda Electric Generators and other high value items, which, once stolen, could be easily converted to cash in a variety of ways.

7. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, obtained the Uniform Pricing Code (hereinafter referred to as UPC) for similar, yet dramatically less expensive merchandise. These UPC codes for less expensive merchandise were created through the use of a special computer software program and a personal computer. These counterfeit UPC codes were then used to create false UPC labels, which were ultimately placed on

far more expensive merchandise appearing on the display shelves of various retail stores targeted by the conspirators.

8. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, proceeded to enter various retail stores armed with these counterfeit UPC labels, and sought out specific high dollar merchandise as afore described.

9. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, placed and caused to be placed said counterfeit UPC labels over the legitimate UPC labels attached to high dollar merchandise, thus creating the false impression that the particular targeted item of merchandise had a far cheaper retail price than actually marked by the legitimate UPC label.

10. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, presented and caused to be presented the high dollar merchandise with the attached counterfeit UPC label to the store cashier for purchase. As a result, a far less expensive price would be reflected to the unsuspecting cashier as a result of the counterfeit UPC label.

11. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID**

J. LOMBARDO and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, would depart the store with the fraudulently purchased merchandise.

12. It was further part of the conspiracy and scheme and artifice to defraud and obtain money and property that defendants **TOMMY JOE TIDWELL** and **DAVID A. DETRICK** would then dispose of this merchandise through E-Bay internet sales.

OVERT ACTS

13. In furtherance of this conspiracy and scheme and artifice to defraud and obtain money and property, and to effect the objects thereof, in the Southern District of Ohio and elsewhere, defendants **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** together with other individuals both known and unknown to the Grand Jury, engaged in the following conduct and performed and committed at least one of the following overt acts, among others:

- a. On or about June 12, 2008, defendant **DAVID A. DETRICK** drove defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** to the Kmart Store located at 200 W. Main St., Xenia, Ohio in a 2005 White Chevrolet Van, bearing Georgia license plate AYE3561.
- b. On said date, defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** entered the Kmart Store having in their possession counterfeit UPC labels.
- c. While in said Kmart Store, defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS**, caused to be placed a counterfeit UPC label over a genuine UPC label appearing on a box containing a new Dyson vacuum cleaner sitting on a store shelf.
- d. On or about June 12, 2008, defendant **DAVID A. DETRICK** drove defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** to the Target Store located at 5700 Executive Blvd., Huber Heights, Ohio in a 2005 White Chevrolet Van, bearing Georgia license plate AYE3561.

- e. On said date, defendants **DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS** entered the Target store having in their possession counterfeit UPC labels.
- f. On or about June 12, 2008, defendant **DAVID A. DETRICK** drove defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** to the Gander Mountain Store located at 8001 Old Troy Pike, Huber Heights, Ohio in a 2005 White Chevrolet Van, bearing Georgia license plate AYE3561.
- g. On said date, defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** entered the Gander Mountain Store having in their possession counterfeit UPC labels.
- h. While in said Gander Mountain Store, defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS**, caused to be place counterfeit UPC labels over genuine UPC labels appearing on two boxes containing two electric winches which were sitting on a store shelf. Each of these electric winches bore legitimate UPC codes that reflected an actual purchase price of \$149.97.
- I. Defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS**, thereafter approached Gander Mountain Store cashiers with the two electric winches and attempted to have the cashier scan the attached counterfeit UPC code # 0-29695-10164-9 which reflected a purchase price of \$14.95 for a pistol case.
- j. On or about June 12, 2008, defendant **DAVID A. DETRICK** drove defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** to the Kmart Store located at 7611 Old Troy Pike, Huber Heights, Ohio in a 2005 White Chevrolet Van, bearing Georgia license plate AYE3561.
- k. On said date, defendants **DAVID J. LOMBARDO** and **TELISHA DAVIS** entered the said Kmart Store having in their possession counterfeit UPC labels.
- l. On or about June 13, 2008, defendant **TOMMY JOE TIDWELL** possessed and maintained a personal computer and UPC label making software and equipment at his 2707 Westfield Ave., Dayton, Ohio residence.

- m. On or about June 13, 2008, defendant **TOMMY JOE TIDWELL** used his 2707 Westfield Ave., Dayton, Ohio residence as a trans-shipment point for stolen property.
- n. Between on or about March 17, 2003 and continuing up to and including June 13, 2008, defendant **TOMMY JOE TIDWELL** maintained a PayPal account with National City Bank bearing account # XXX-XXX-XXX-XXX-XXX-1116.
- o. Between on or about April 12, 2002 and continuing up to and including June 13, 2008 defendant **TOMMY JOE TIDWELL** maintained an E-Bay internet account "TJTMISS".
- p. Between on or about April 12, 2002 and continuing up to and including June 13, 2008 defendant **TOMMY JOE TIDWELL** sold thousands of stolen pieces of merchandise on his E-Bay internet account "TJTMISS".
- q. Between on or about April 12, 2002 and continuing up to and including June 13, 2008 defendant **TOMMY JOE TIDWELL** maintained deposited in excess of \$800,000 in illicit proceeds from sales of stolen merchandise in a Dayton, Ohio bank account he controlled.
- r. Between on or about April 12, 2002 and continuing up to and including June 13, 2008 defendant **TOMMY JOE TIDWELL** transported defendants **DAVID A. DETRICK** and **DAVID J. LOMBARDO** to various target retail stores located throughout in the State of Illinois in a 1999 black Chevrolet pickup truck bearing Ohio license plates ECR-2668.

All in violation of 18 U.S.C. § 371.

COUNT 2

(Unauthorized Possession of Device-Making Equipment)

14. On or about June 12, 2008, in the Southern District of Ohio, and elsewhere, the defendant, **TOMMY JOE TIDWELL**, did knowingly and with the intent to defraud, possess,

control and have in his custody certain device-making equipment as defined by 18 U.S.C. § 1029(e)(6), which was designed and intended to fabricate fraudulent UPC Codes to include #8-85911-00393-3 and #7-35541-20604-7 which were used to fraudulently purchase Dyson vacuum cleaners; #0-15082-23334-5 which was used to fraudulently purchase a Lincoln Electric Welders; and #0-12748-3785-9 which was used to fraudulently purchase a Warn Winch, Model XT-30, and by such conduct affected interstate and foreign commerce.

In violation of 18 U.S.C. §§ 2 and 1029(a)(4).

COUNT 3
(Unauthorized Use of a Counterfeit Access Device)

15. On or about June 12, 2008, in the Southern District of Ohio, and elsewhere, the defendants, **DAVID J. LOMBARDO** and **TELISHA DAVIS**, together with other individuals both known and unknown to the Grand Jury, did knowingly and with the intent to defraud use a counterfeit access device, to wit: a fabricated, false and fraudulent UPC Code bearing #0-29695-10164-9 which was used to fraudulently attempt to purchase two electric winches from the Gander Mountain Store located at 8001 Old Troy Pike, Huber Heights, Ohio, and by such conduct affected interstate and foreign commerce.

In violation of 18 U.S.C. §§ 2 and 1029(a)(1).

COUNT 4
**(Use of Unauthorized Access Devices During a One Year Period to
Obtain Things of Value in an Aggregate of \$1,000 or More)**

16. Beginning on a date unknown, but at least by April 12, 2002 and continuing up to June 13, 2008, in the Southern District of Ohio and elsewhere, the defendants, **TOMMY JOE TIDWELL**, **DAVID A. DETRICK**, **DAVID J. LOMBARDO** and **TELISHA DAVIS**, did knowingly and with the intent to defraud use one or more unauthorized access device, namely UPC labels at various retail stores to include: Gander Mountain, Lowe's Home Improvement, Home

Depot, Wal-Mart, Tractor Supply, Menards, Kmart, Target, Big R and Rural King Supply during a one-year period, and by such conduct obtained things of value aggregating \$1,000 or more during that period, which affected interstate commerce.

In violation of 18 U.S.C. §§ 2 and 1029(a)(2).

COUNTS 5 - 11
(Mail Fraud)

17. Paragraphs 1 through 12 of Count 1 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein.

18. On or about the dates listed below, in the Southern District of Ohio, and elsewhere, the defendant, **TOMMY JOE TIDWELL**, having devised and intended to devise the aforesaid scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, and the non-disclosure and concealment of material facts, and for the purpose of executing the aforesaid scheme and artifice to defraud and to obtain money and property, and attempting so to do, knowingly did place and cause to be placed the following listed stolen items of merchandise in the custody of the United Parcel Service, a commercial interstate carrier for delivery and movement from 2707 Westfield Ave., Dayton, Ohio 45402 to the following persons made known to the Grand Jury, at the following listed addresses.

COUNT	DATE	ITEM	PRICE	PURCHASER	ADDRESS
5	5/4/08	Husqvarna Chainsaw	\$350	D.D.	859 Fox Creek Road Preston Hollow, NY 12469
6	3/18/08	Lincoln Welder	\$390	C.F.C.	938 Queens Drive New Braunfels, TX 78130
7	1/12/08	Dyson Vacuum	\$375	P.B.	P.O. Box #1357 Edgewater, MD 21037

8	10/10/07	Paloma Tankless Water Heater	\$300	S.Y.	519 Gross Avenue Moncks Corner, SC 29461
9	6/29/07	Lincoln Welder	\$380	J.G.	799 S. Old 31 Franklin, IN 46131
10	5/26/07	Dyson Vacuum	\$325	L.L.	777 7 th Street NW #92 Washington, DC 20001
11	5/12/07	Bosch Jackhammer	\$950	P.L.	2809 Moss Lane Violet, LA 70092

In violation of 18 U.S.C. §§ 2 and 1341.

COUNTS 12 - 18
(Wire Fraud)

19. Paragraphs 1 through 12 of Count 1 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein.

20. On or about the dates listed below, in the Southern District of Ohio, and elsewhere, the defendant, **TOMMY JOE TIDWELL**, having devised and intended to devise the aforesaid scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, and the non-disclosure and concealment of material facts, and for the purpose of executing the aforesaid scheme and artifice to defraud and to obtain money and property, knowingly did transmit and cause to be transmitted from the Southern District of Ohio by means of wire communication in interstate commerce certain signs, signals and sounds, to wit, an electronic mail message from the following listed log-in addresses to E-bay, an internet auction site located in San Jose, California regarding the sale of a the following listed stolen items of merchandise.

COUNT	DATE	ITEM	PRICE	PURCHASER	LOG-IN E-MAIL ADDRESS
12	5/4/08	Husqvarna Chainsaw	\$350	D.D.	dianak77
13	3/18/08	Lincoln Welder	\$390	C.F.C.	cfc5
14	1/12/08	Dyson Vacuum	\$375	P.B.	philbacchus
15	10/10/07	Paloma Tankless Water Heater	\$300	S.Y.	stan843
16	6/29/07	Lincoln Welder	\$380	J.G.	gravesjudy
17	5/26/07	Dyson Vacuum	\$325	L.L.	laur_tz
18	5/12/07	Bosch Jackhammer	\$950	P.L.	groveboy32

In violation of 18 U.S.C. §§ 2 and 1343.

COUNT 19
(Conspiracy to Commit Mail and Wire Fraud)

21. Paragraphs 1 through 3 of Count 1 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein.

22. Beginning on a date unknown, but at least by April 12, 2002 and continuing up to and including June 13, 2008, in the Southern District of Ohio and elsewhere, the defendants, **TOMMY JOE TIDWELL, DAVID A. DETRICK, DAVID J. LOMBARDO** and **TELISHA DAVIS**,

signals and sounds, to wit, an electronic mail message from the log-in address of dianak77 to E-bay, an internet auction site located in San Jose, California regarding the sale of a stolen Husqvana Chainsaw.

- b. On or about March 18, 2008, the defendant, **TOMMY JOE TIDWELL**, knowingly caused to be transmitted from the from the Southern District of Ohio and elsewhere, by means of wire communication in interstate commerce certain signs, signals and sounds, to wit, an electronic mail message from the log-in address of cfc5 to E-bay, an internet auction site located in San Jose, California regarding the sale of a stolen Lincoln Welder.
- c. On or about January 12, 2008, the defendant, **TOMMY JOE TIDWELL**, knowingly caused to be transmitted from the from the Southern District of Ohio and elsewhere, by means of wire communication in interstate commerce certain signs, signals and sounds, to wit, an electronic mail message from the log-in address of philbacchus to E-bay, an internet auction site located in San Jose, California regarding the sale of a stolen Dyson Vacuum.
- d. On or about October 10, 2007, the defendant, **TOMMY JOE TIDWELL**, knowingly caused to be transmitted from the Southern District of Ohio and elsewhere, by means of wire communication in interstate commerce certain signs, signals and sounds, to wit, an electronic log-in mail message from the address of stan843 to E-bay, an internet auction site located in San Jose, California regarding the sale of a stolen Paloma Tankless Water Heater.
- e. On or about May 4, 2008, while at his residence located at 2707 Westfield Ave., Dayton, OH the defendant **TOMMY JOE TIDWELL** placed in the possession of the United Parcel Service a package addressed to a person identified to the Grand Jury as "D.D." with the address of 859 Fox Creek Rd., Preston Hollow, NY 12469.
- f. On or about March 18, 2008, while at his residence located at 2707 Westfield Ave., Dayton, OH the defendant **TOMMY JOE TIDWELL** placed in the possession of the United Parcel Service a package addressed to a person

together with other individuals both known and unknown to the Grand Jury, did conspire between themselves and each other to commit offenses as follows:

- a) 18 U.S.C. § 1341, namely mail fraud, and
- b) 18 U.S.C. § 1343, namely wire fraud.

OBJECTS OF THE CONSPIRACY

23. The object of this conspiracy was to wrongfully, knowingly and with intent to defraud, devise a scheme and artifice to obtain money and property by means of false and fraudulent pretenses, representations and promises, and in executing such scheme, deposit or cause to be deposited matters or things of value with a commercial interstate carrier for movement and delivery in interstate commerce, in violation of 18 U.S.C. § 1341.

24. It was further part of this conspiracy to wrongfully, knowingly and with intent to defraud, devise a scheme and artifice to obtain money and property by means of false and fraudulent pretenses, representations and promises, and in executing such scheme, transmit and cause to be transmitted by means of wire, in interstate commerce, certain writings, signs, signals, pictures and sounds, in violation of 18 U.S.C. § 1343.

MANNER AND MEANS

25. Paragraphs 1 through 12 of Count 1 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein.

OVERT ACTS

26. Paragraph 13 and Overt Acts 13a. thru 13r. listed in Count 1 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein, in addition to:

- a. On or about May 4, 2008, the defendant, **TOMMY JOE TIDWELL**, knowingly caused to be transmitted from the Southern District of Ohio and elsewhere, by means of wire communication in interstate commerce certain signs,

identified to the Grand Jury as "C.F.C." with the address of 938 Queens Dr., New Braunfels, TX 78130.

In violation of 18 U.S.C. § 1349.

COUNT 20
(Felon in Possession of Firearm)

On or about June 13, 2008, the defendant, **TOMMY JOE TIDWELL**, in Montgomery County, in the Southern District of Ohio, having been convicted of crimes punishable by imprisonment for a terms exceeding one (1) year, to wit: Felony Theft, Case No. 91-CR-2371, in Montgomery County Common Pleas Court, Dayton, Ohio, on March 2, 1993; and Felony Theft, Case No. 92-CR-623, in Greene County Common Pleas Court, Xenia, Ohio, on March 25, 1993, did knowingly possess in and affecting interstate commerce a firearm, to wit: a handgun.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

FORFEITURE ALLEGATION No. 1
RELATING TO COUNTS 1- 4

Upon conviction of one or more of the offenses alleged in Counts 1- 4 of this indictment, defendants shall forfeit to the United States pursuant to, 18 U.S.C. §982(a)(2)(B), any property constituting, or derived from, proceeds obtained directly or indirectly as a result of the said violations, and/or 18 U.S.C. §1029(c)(1)(C), any personal property used or intended to be used to commit the offenses including but not limited to the following:

1. 2707 Westfield Avenue, Dayton, Ohio 45420
2. 1999 Chevrolet Silverado C1500, VIN #1GCEC14W5XE120505
3. 2006 Chrysler Town & Country, VIN #2A4GP44R35R8321
4. 2003 Pontiac Grand AM, VIN #1G2NV52E03M594877
5. 1999 Pontiac Montana, VIN #1GMDX03E9XD332036

FORFEITURE ALLEGATION No. 2
RELATING TO COUNTS 5-11

Upon conviction of one or more of the offenses alleged in Counts 5-11 (Mail Fraud) and Counts 12-18 (Wire Fraud) and Count 19 (Conspiracy to Commit Mail and Wire Fraud) of this indictment, defendants shall forfeit to the United States, pursuant to 18 U.S.C. §981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real or personal, which constitutes or is derived from proceeds traceable to wire fraud in violation of 18 U.S.C. §1343 and mail fraud in violation of 18 U.S.C. §1341, or a conspiracy to commit such offense in violation of including but not limited to the following:

1. 2707 Westfield Avenue, Dayton, Ohio 45420
2. 1999 Chevrolet Silverado C1500, VIN #1GCEC14W5XE120505
3. 2006 Chrysler Town & Country, VIN #2A4GP44R35R8321
4. 2003 Pontiac Grand AM, VIN #1G2NV52E03M594877
5. 1999 Pontiac Montana, VIN #1GMDX03E9XD332036.

FORFEITURE ALLEGATION NO. 1 and 2
SUBSTITUTE ASSETS

If any of the property described above in forfeiture Allegations No. 1 and No. 2, as a result of any act or omission of the defendant, TOMMY JOE TIDWELL

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. §982(b) and 21 U.S.C. §853(p), to seek

forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

FORFEITURE ALLEGATION No. 3
RELATING TO COUNT 20


Upon conviction in Count Twenty of the Indictment, the defendant **TOMMY JOE TIDWELL** shall forfeit to the United States pursuant to 18 U.S.C. §924(d)(1) and 28 U.S.C. § 2461(c), firearms involved in or used in any knowing violation of 18 U.S.C. § 922(g)(1), including but not limited to the following:

1. 9 mm Beretta handgun, Model 92FS, serial no. L64610Z.

A T R U E B I L L

F O R E M A N

GREGORY G. LOCKHART
United States Attorney


VIPAL J. PATEL
Deputy Chief, Criminal Division